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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992)	CS Docket No. 95-61
)	
Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming)	
)	

COMMENTS OF DIRECTV, INC.

DIRECTV, Inc. ("DIRECTV") hereby submits the following comments to the Commission's Notice of Inquiry ("NOI") in the above-captioned matter.

I. OVERVIEW

Approximately two weeks ago, on June 17, 1995, DIRECTV celebrated the one-year anniversary of its service launch.^{1/} DIRECTV currently provides direct broadcast satellite ("DBS") service to over 600,000 customers nationwide, delivering -- via two high-powered DBS satellites positioned at 101° W.L. -- approximately 175 channels of entertainment and informational programming directly to homes and businesses equipped with DIRECTV's DSS® receiving system, which features satellite dish antennas just 18 inches in diameter. Earlier this month, on June 9, 1995, DIRECTV launched DBS-3, which will also be positioned at 101°, and which will provide a platform to continue DIRECTV's delivery of new programming to consumers, while also functioning as an in-orbit spare to DBS-2 to ensure reliable service.

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^{1/} DIRECTV is a wholly-owned subsidiary of Hughes Electronics Corporation and a licensee in the DBS service.

In this proceeding, pursuant to its statutory directive to present an annual report to Congress on the status of competition in the market for the delivery of video programming, the Commission seeks to update its information with respect to the current state of competition in the multichannel video programming marketplace. DIRECTV has provided answers to the Commission's DBS-specific questions below. It is clear today that the launch of DIRECTV's DBS-1 satellite over a year ago -- the culmination of over ten years and some \$600 million worth of effort and investment -- inaugurated a new era in the provision of video programming. DIRECTV, along with another DBS licensee, United States Satellite Broadcasting Co., Inc. ("USSB"), operating on its assigned frequencies on DBS-1, have introduced into the marketplace the nation's first high-powered DBS services to consumers, and continue to validate the Commission's finding last year that DBS "has advanced as a potential long-term viable competitor to cable."^{2/}

From DIRECTV's perspective, the question at this point of the assessment of MVPD competition is whether the Commission will allow DBS to continue its evolution into a formidable and competitive cable alternative.

Last year, DIRECTV emphasized how important the 1992 Cable Act and the Commission's implementing regulations on program access were (and remain today) to high power DBS's development in general and DIRECTV's in particular into strong MVPD competitors.^{3/} DIRECTV also warned the Commission that there were indications of a continuing broader, multi-front campaign by cable, even in the wake of the FCC's implementation of the 1992 Cable Act, to use its market power to influence the development

^{2/} 1994 Competition Report, 9 FCC Rcd 7442, 7474 (1994), at ¶ 63.

^{3/} See Comments of DIRECTV, Inc., CS Docket No. 94-48 (June 29, 1994), at 2-4, 20.

of emerging competition. DIRECTV specifically cited the efforts of Primestar, the direct-to-home ("DTH") consortium of the nation's six largest cable MSOs, and TCI, which had just declared its intent to use Primestar as the center piece of its "Headend in the Sky" program, as signs that the "cable industry is now extending its control the satellite facilities used to distribute [cable] programming."^{4/}

Unfortunately, such trends have continued, and DIRECTV once again urges vigilance and the exercise of appropriate regulatory action by the Commission where it is necessary. For example, the full Commission even now is reviewing a decision of the International Bureau that has the potential to profoundly affect the future development of the high-power DBS segment of the MVPD industry and this segment's potential to emerge as a viable competitor to cable television.^{5/} Essentially, the Commission must decide in that case whether it is in the public interest to allow the Primestar Partner MSOs to acquire the DBS orbit spectrum of Advanced Communications Corporation, a "paper only" DBS permittee whose construction permit was cancelled recently by the Bureau for failure to demonstrate due diligence.^{6/}

While DIRECTV does not intend to re-litigate the merits of its position in the Advanced proceeding here,^{7/} this Notice an appropriate forum to urge the Commission to focus carefully on the competitive issues surrounding Primestar's proposed entry into high-

^{4/} Id. at 5-8.

^{5/} In the Matter of Advanced Communications Corporation, DBS-94-11EXT, DBS-94-15ACP, DBS-94-16MP, Memorandum Opinion and Order (April 27, 1995).

^{6/} See id. at ¶ 19.

^{7/} DIRECTV refers the Commission to the pleading and attachments contained in its Consolidated Opposition of DIRECTV, Inc. (June 6, 1995), filed in connection with the Advanced proceeding.

power DBS. Primestar is simply an alternative distribution outlet for cable operators, and lacks the incentive to develop the DBS business or technology in a manner that will be truly competitive with cable. If the Commission hopes to transition out of regulating cable rates by encouraging vigorous competition to cable via the development of competing distribution technologies, granting the Primestar MSOs unfettered entry into DBS simply makes no policy sense.

This is a crucial time for emerging MVPD competitors to cable that requires special oversight by the Commission. With momentum in Congress once again to deregulate the cable industry, and cable operators even now seeking to bypass the statutory "effective competition" standard,^{8/} the Commission must heighten its commitment to ensuring the development of a competitive MVPD marketplace. As it prepares its 1995 Competition Report, DIRECTV urges the Commission to focus on the cable industry's attempts to perpetuate its monopoly position.

II. RESPONSE TO SPECIFIC ISSUES

Set forth below are DIRECTV's responses to certain of the specific questions raised in the Commission's NOI.

^{8/} See, e.g., Public Notice, Social Contract for Continental Cablevision, Inc. Available for Comment, FCC 95-137 (April 3, 1995) and attached draft "Social Contract for Continental Cablevision, Inc.". One clause of this Social Contract would relieve Continental from rate regulation altogether based upon a showing that Continental is "price constrained by competition" in particular cable franchise areas. DIRECTV has already expressed its concerns to the Commission that such ambiguous alternative formulations to the express "effective competition" test set forth in the 1992 Cable Act, even if they are legal, could have a significant negative impact on the public interest. See Comments of DIRECTV, Inc. (May 22, 1995).

A. Status of Direct-to-Home Satellite Services

1. Specific Questions and Answers Regarding DBS

Below are responses to the Commission's specific inquiries in updating information on high-powered DBS service.

- (a) *To what extent do the subscribership of these DBS services overlap? What is the total estimated subscriber base for each individual service provider and for the industry as a whole?*

DIRECTV's subscriber base as of June, 1995, is over 600,000 subscribers.

As to overlap, virtually all USSB subscribers are also DIRECTV subscribers. DIRECTV is aware of a few cases of subscribers who take both DIRECTV and C-band services. Such cases are unusual, however, and are estimated to comprise less than 1% of DIRECTV subscribers.

- (b) *What is the projected subscribership of each DBS service and of the industry as a whole at the end of 1995? At the end of each subsequent year through the end of 1999? On what are these projections based?*

DIRECTV expects 1.5 million subscribers by year-end 1995, growing to 10 million subscribers by year-end 2000. The annual growth rate between 1995 and 2000 is projected to be approximately linear. These projections are based on quantitative market research and current sales performance, adjusted for known factors such as sales seasonality and additional hardware manufacturers.

- (c) *Where are most DBS subscribers located (i.e., urban versus rural areas)? How many subscribers are located in areas served by cable operators? What factors account for cable subscribers' choice to receive DBS services? What percentage of DBS subscribers also subscribe to cable services, and what cable services to they receive?*

The distribution of current DIRECTV subscribers is approximately equal between urban and rural areas. About 50% of DIRECTV's subscribers are in areas passed

by cable. Of that group, 2/3 were cable subscribers when they purchased their DSS® systems. Among these cable subscribers, 60% canceled cable after subscribing to DIRECTV, with the remaining 40% split about evenly between those who reduced their service level and those who made no changes to their cable service.

- (d) *What is the total estimated channel capacity of each operator? What are the plans of each operator to increase the digital compression ratio from the initial ratio used at the time of launch (so as to offer more channels at a later date)?*

The first two satellites (DBS-1 and DBS-2) owned and operated by DIRECTV together provide an average of at least 150 channels of video entertainment.^{9/}

There are several methods which can be employed to increase channel capacity from the available bandwidth. One method is to increase the power of the transponders from 120 watts to 240 watts; a second is to improve the compression ratio.

DIRECTV's third satellite, DBS-3, was recently launched and is expected to increase DIRECTV's system capacity at 101° W.L. by approximately 20 channels. This will be accomplished by increasing the transponder power to 240 watts on DBS-2 and DBS-3, and reducing the number of transponders per satellite from 16 to 8. This configuration allows for increased video throughput. Expanding the number of channels via increased compression ratios is also being explored.

- (e) *How does each operator market its services? Are current marketing efforts targeted equally to potential subscribers in areas served by cable systems and potential subscribers in areas unserved by cable systems?*

DIRECTV has three channels of distribution: (1) national, regional and independent consumer electronic retail stores; (2) satellite TVRO dealers; and (3) the

^{9/} This figure excludes the 5-transponder "payload" that USSB purchased on DBS-1 for use in connection with its own DBS programming services.

National Rural Telecommunications Cooperative ("NRTC"). All three distribution channels serve both cabled areas and non-cabled areas, but the last two (TVRO dealers and the NRTC) especially target underserved cabled areas and non-served cabled areas.

- (f) *Has the inability to offer local broadcast channels affected the competitive impact of DBS service? Have there been any developments that would permit DBS dish owners to use their systems to receive local broadcast channels?*

The inability to offer local broadcast channels through the DBS service is the most frequently mentioned programming-related question by prospective subscribers.

DIRECTV's DSS® receiving equipment continues to offer a user-friendly "A/B" switch so that customers, with their DSS® remote control units, may switch from DBS satellite reception to local broadcast programming, which may be received via a variety of conventional over-the-air antennas.

- (g) *Are the prices for DBS services nationally uniform, or do they vary depending on the location of the subscriber? If they vary, what are the reasons for the price differentials?*

DIRECTV prices are uniform for all subscribers nationwide except for those who live in territories purchased by the NRTC. NRTC has an exclusive marketing arrangement with DIRECTV which includes the ability to set its own prices for DIRECTV packages and programming.

- (h) *What is the availability of equipment for those who wish to subscribe to this service? If there is an equipment shortage, when is it projected to be eliminated? what is the basis for this projection?*

After equipment shortages in 1994, there is now sufficient production to meet consumer demand.

- (i) *How are equipment prices projected to change over one year? Over three years? What is the basis for this projection? Do installation and equipment charges limit the extent to which DBS services serve as reasonable substitutes for cable services?*

Hardware retail prices, while expected to gradually decrease with the addition of manufacturers and increasing retail and merchandising competition, are set by the hardware manufacturers and retailers. They are therefore outside of the control of DIRECTV.

Although upfront equipment and installation charges are not insubstantial, financing programs give the consumer a total monthly cost that is reasonable as a substitute for cable services.

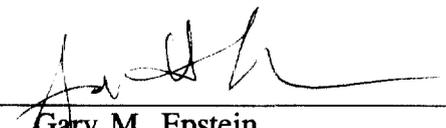
(j) *What developments have there been concerning licensing and distribution arrangements for DBS equipment (such as plans for Sony to begin production and for other manufacturers to be licensed)?*

Sony recently has begun production and distribution of DSS hardware. Additional manufacturers have been authorized to manufacture and distribute the DSS system, including Toshiba America Consumer Products, Uniden America Corporation, and Hughes Network Systems. HNS is expected to enter the market in early 1996, with Toshiba and Uniden entering in mid-1996. Additional manufacturers may be announced later this year.

Respectfully submitted,

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